COMMISSION REGULATION (EC) No 392/94

of 23 February 1994

amending Regulation (EEC) No 1443/82 laying down detailed rules for the application of the quota system in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector (1), as last amended by Regulation (EC) No 133/94 (2), and in particular Articles 24b (6) and 39 thereof,

Whereas the common organization of the markets in the sugar sector covered by Regulation (EEC) No 1785/81 has been extended with effect from 1 July 1994 to include inulin syrup covered by CN codes ex 1702 60 90 and ex 1702 90 90; whereas the production quota arrangements provided therein apply to this product from the 1994/95 marketing year onwards; whereas for this purpose the necessary detailed rules should be established by amending Commission Regulation (EEC) No 1443/82 (3), as last amended by Regulation (EEC) No 886/91 (4);

Whereas Article 24b (1) of Regulation (EEC) No 1785/81 lays down that in principle the A quota of each undertaking producing inulin syrup shall be equal to its production volume, established by the Member State concerned on terms to be determined, obtained during the period 1 July 1992 to 30 June 1993 form a specific installation desgined and reserved for the hydrolysis of inulin as part of a complete integrated conversion process stretching from reception of the basic agricultural product to final production of inulin syrup; whereas, having regard to this process definition, provision should be made for Member States to take into account when carrying out this exercise at all events the quantity of roots of the basic agricultural product purchased, accepted into the reception point and processed into inulin syrup during the period concerned, as well as the quantity of inulin syrup produced in the said installation at the end of a continuous and uninterrupted manufacturing process during the reference period;

Whereas Article 24b (3) of Regulation (EEC) No 1785/81 lays down that, when determining the undertaking's installed technical production capacity necessary for establishing the A and B quotas, reference must be made to the continuous industrial production in the relevant installation; whereas, in order to ensure the uniform application of this rule in the Community, it is necessary to define its scope by reference in particular to the relationship between the actual production capacity and the potential market demand;

Whereas inulin syrup in product form generally appears as such from the moment that the inuline or its oligofructoses have undergone the process known as hydrolysis and first evaporation; whereas that factor, together with the need to eliminate any discretion in the choice of the moment at which future production should be established, means that, from the 1994/95 marketing year, production should be established immediately after the hydrolysis and first evaporation process has ended and before any operation to separate the glucose and fructose constituents or to produce mixtures;

Whereas the determination both of production capacities and of production itself must, by virtue in particular of the application of the coefficient of 1,9 fixed by Regulation (EEC) No 1785/81 for achieving equivalance between inulin syrup and sugar/isoglucose, proceed on the understanding that those operations are to be carried out by reference to an inulin syrup with an 80 % fructose content;

Whereas, in order to enable the Member States concerned to determine and allocate, in full knowledge of the facts, the quotas of all undertakings producing inulin syrup located on their territories, each of the said undertakings should be required to notify certain information as well as to grant the Member State concerned at all times the right to carry out all the controls and verifications of its installations which may be necessary;

Whereas the production year for inulin syrup coincides in general with the production year for sugar; whereas the establishment of inulin syrup production and the calculation of the production levies should accordingly take place by reference to the same dates as those applicable to the production of sugar;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1443/82 is hereby amended as follows:

(1) OJ No L 177, 1. 7. 1981, p. 4.
(2) OJ No L 22, 27. 1. 1994, p. 7.
(3) OJ No L 158, 9. 6. 1982, p. 17.
(4) OJ No L 90, 11. 4. 1991, p. 15.

1. The following Article 2a is inserted :

'Article 2a

1. For the purposes of establishing the production referred to in Article 24b (1) of Regulation (EEC) No 1785/81, the Member State concerned must take into account, in particular, the quantity of roots of the basic agricultural product purchased, accepted into the reception point and processed into inulin syrup in the specific installations designed and reserved for that purpose by the inulin syrup-producing undertaking concerned during the reference period as defined in the said paragraph 1.

Account shall be taken only of the quantity of inulin syrup produced in those installations after a continuous manufacturing process which is not interrupted during the reference period and within the maximum period referred to in Article 24b (3) of Regulation (EEC) No 1785/81.

2. For the purposes of determining the technical production capacity referred to in Article 24b (3) of Regulation (EEC) No 1785/81, industrial production within the meaning of the said paragraph 3 shall be taken to be the production necessary to meet any order for the purchase of inulin syrup, within the quantitative limit of that capacity and after the exclusion of any production from pilot or test installations. The capacity shall be expressed as sugar/isoglucose equivalent by applying the coefficient 1,9 to an inulin syrup in the dry state for which the fructose content has been converted to 80 %.

3. The notification indicated in Article 24b (4) of Regulation (EEC) No 1785/81 must include the following, in addition to the information required under the said Article :

(a) the corporate name and address of the undertaking, and the sites where the installations for manufacturing inulin syrup are located ;

(b) the production diagram ;

(c) the quantity of roots of the basic agricultural product purchased, accepted into the reception point and manufactured into inulin syrup in the specific installations designed and reserved for that purpose by the inulin syrup-producing undertaking concerned, during the period 1 July 1992 to 30 June 1993 ;

(d) the inulin syrup production achieved by the undertaking concerned during the period 1 July 1992 to 30 June 1993 in the installations refferred to in Article 24b (1) of Regulation (EEC) No 1785/81, after taking into account the conditions indicated in paragraph 1 of this Article ;

(e) the daily technical capacity for industrial production installed at 1 October 1992, expressed as sugar/isoglucose equivalent by applying the coefficient 1,9 to an inulin syrup in the dry state for which the fructose content has been restored to 80 % ;

(f) the actual duration of the manufacture period in conformity with the process indicated in the second subparagraph of paragraph 1, expressed in work-days ;

(g) the daily capacity for processing roots into inulin syrup over the duration of the manufacturing period ;

(h) the root-washing capacity, expressed in tonnes per hour ;

(i) the diffusion capacity, expressed in tonnes of sliced beet per hour, or root-crushing capacity when the process does not make use of diffusion ;

(j) the elimination capacity for non-sugars and wastes through a purification cycle ;

(k) the hydrolysis capacity, expressed in tonnes per hour for hydrolysis to the 80 % fructose stage ;

(l) the level of product dry matter on entry to and energence from the first concentration ;

(m) installed storage capacity as at 1 October 1992.

The notification must be accompanied by all factual evidence in support of the points mentioned therein, and by a declaration in writing by the manufacturer under which he undertakes to grant the competent authorities of the Member State concerned the means for carrying out in his installations the controls and verifications which they deem necessary.

The Member States concerned may, where required, have recourse to information other than that supplied by the undertaking concerned in order to establish the accuracy of notifications.

Notifications must reach the competent authorities of the Member State concerned by 15 March 1994 at the latest.

The undertakings producing inulin syrup which fulfil the required conditions shall be notified of their A and B production quotas, as definied in Article 24b of Regulation (EEC) No 1785/81, by the Member State concerned at the latest by 15 Arpil 1994. In special cases the Member State concerned may, where control considerations are involved, extend the deadline for notification until 30 April 1994.'

2. The following Article 2b is inserted :

'Article 2b

1. With effect from the 1994/95 marketing year, for the purposes of Article 24b and Articles 26 to 29 of Regulation (EEC) No 1785/81, 'inulin syrup production' shall mean the quantity of the product obtained after the hydrolysis of inulin or oligofructoses with a content by weight in the dry state of at least 10 % fructose in free form or as sucrose, irrespective of its fructose content in excess of that limit, expressed as dry matter equivalent sugar/isoglucose, and established for each undertaking producing inulin syrup in accordance with paragraph 2.

2. The quantity of the product referred to in paragraph 1 shall be recorded by :

(a) physical metering of the tel quel volume of the product immediately after leaving the first evaporator after each hydrolysis and before any operation to separate the glucose and fructose constituents or to produce mixtures ; and

(b) determination of the dry matter content by refractometry and measurement of the fructose content by weight in the dry state, on the basis of daily representative sampling ; and

(c) conversion of the fructose content to 80 % by weight in the dry state by multiplying the quantity determined in dry matter by the coefficient representing the ratio between the measured fructose content of the said quantity of syrup and 80 % ; and

(d) expression as sugar/isoglucose equivalent by applying the coefficient 1,9.'

3. Article 3 is amended as follows :

(a) The first subparagraph of paragraph 1 is replaced by the following :

'Before 15 February of each year Member States shall establish provisional sugar and inulin syrup production figures for the current marketing year for each undertaking situated on their territories.'

(b) Paragraph 3 is replaced by the following :

'3. Before 1 October of each year Member States shall establish final figures for sugar, isoglucose and inulin syrup production by each undertaking in the preceding marketing year.'

4. Article 5 is amended as follows :

(a) Indent (b) of paragraph 1 is replaced by the following :

'(b) the unit amounts, determined in accordance with Article 6, to be paid by sugar manufacturers, isoglucose manufacturers and inulin syrup manufacturers as advance payments in respect of the levy shall be fixed in accordance with the procedure laid down in Article 41 of Regulation EEC No 1785/81.'

(b) The first and second subparagraphs of paragraph 2 are replaced by the following :

'2. Before 15 April of the current marketing year Member States shall establish the advance payments to be made by each sugar-producing undertaking, each isoglucose-producing undertaking and each inulin syrup-producing undertaking.

In the case of sugar and inulin syrup, the advance payment shall be determined :

(a) by applying to the provisional production of A sugar and A inulin syrup and B sugar and B inulin syrup, determined pursuant to Article 3 (1), the unit amount fixed for the advance payment in respect of the basic production levy ; and

(b) by applying to the provisional production of B sugar and B inulin syrup, determined pursuant to Article 3 (1), the unit amount fixed for the advance payment in respect of the B levy.'

(c) Paragraph 5 is replaced by the following :

'5. For the purposes of determining the quantity referred to in Article 28 (1) (b) of Regulation (EEC) No 1785/81, there shall be subtracted from the sum of :

(a) the quantities of sugar, isoglucose and inulin syrup disposed of for consumption within the Community either directly or after processing by the user industries ; and

(b) the quantities of denatured sugar ; and

(c) the quantities of sugar, isoglucose and inulin syrup imported from non-member countries as processed products ;

the sum of the quantities of sugar, isoglucose and inulin syrup exported to non-member countries as processed products and the quantities of basic products exceeding in total 60 000 tonnes of white sugar equivalent for which certificates for the production refunds referred to in Article 1 of Council Regulation (EEC) No 1010/86 (*) have been issued.

The following shall be regarded within the meaning of Article 28 (1) (d) of Regulation (EEC) No 1785/81 as export obligations to be fulfilled during the current marketing year :

(a) all quantities of sugar to be exported in the natural state with export levies or refunds fixed by means of tenders opened in respect of the said marketing year ;

(b) all quantities of sugar, isoglucose and inulin syrup to be exported in the natural sate with export refunds or levies fixed periodically on the basis of export licences issued during the said marketing year ;

(c) all foreseeable exports of sugar, isoglucose and inulin syrup in the form of processed products with refunds or levies fixed for that purpose during the said marketing year, such quantities being spread evenly over the marketing year.

For the calculation of the estimated average loss referred to in Article 28 (1) (d) of Regulation (EEC) No 1785/81 there shall also be taken into account the production refunds for quantities of basic products exceeding in total 60 000 tonnes of white sugar equivalent for which certificates for the production refunds referred to in Article 1 of Regulation (EEC) No 1010/86 have been issued during the course of the marketing year in question.

(*) OJ No L 94, 9. 4. 1986, p. 9.'

5. Article 6 is amended as follows:

(a) The opening phase of paragraph 1 is replaced by the following:

'1. Where the estimate of the basic production levy on sugar and inulin syrup is:'

(b) Paragraph 2 is replaced by the following:

'2. The rule laid down in paragraph 1 shall also apply for determining the unit amount of the advance payment in respect of the B levy on sugar and inulin syrup, taking into account the maximum amount referred to in Article 28 (4) or (5) of Regulation (EEC) No 1785/81.'

6. Article 7 is replaced by the following:

'Article 7

1. There shall be fixed for sugar, isoglucose and inulin syrup before 15 October, in respect of the preceding marketing year:

(a) the amounts of the basic production levy and B levy;

(b) if required, the coefficient referred to in Article 28a (2) of Regulation (EEC) No 1785/81.

2. Before 1 November in respect of the preceding marketing year and taking into account the advance payments collected pursuant to Article 5, Member States shall determine the balance of the levies outstanding in the case of each sugar-producing undertaking, each isoglucose-producing undertaking and each inulin syrup-producing undertaking.

Balances due from the undertaking or from the Member State shall be paid before 15 December following.

3. If a coefficient is adopted pursuant to Article 28a (2) of Regulation (EEC) No 1785/81 the Member States shall, in accordance with the provisions of that paragraph, determine for each sugar producing undertaking, for each isoglucose-producing undertaking and for each inulin syrup-producing undertaking, before 1 November and in respect of the preceding marketing year, the additional levy to be paid by the manufacturers in question. This levy shall be collected at the same time as the balance of the production levies for the said marketing year.'

Article 2

This Regulation shall enter into force on 1 March 1994.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 February 1994.

For the Commission

René STEICHEN

Member of the Commission